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March 11, 2022

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Executive Director
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

Re: Informational Filing Regarding Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Companies Commodity and Related Equipment and Services Transfer Agreement

Dear Ms. Boyd:

On November 19, 2021, Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP" and together with DEC, the "Companies") filed with the North Carolina Utilities Commission (the "NCUC") a joint request for approval of the Fuels and Related Equipment and Services Management and Supply Agreement (the "DECFM Agreement") and the First Amendment to the Carolinas Operating Companies Commodity and Related Equipment and Services Transfer Agreement (the "Asset Transfer Agreement"). On January 24, 2022, the NCUC ordered that the agreements should be accepted for filing, should be allowed to become effective as proposed, and that the payment of compensation by DEC and DEP as provided for in the agreements should be approved.

The DECFM Agreement will increase the flexibility that DEC and DEP need to manage the increasing volatility in coal burns, resulting from the expansion of dual fuel capability and increased market variability, so that they can continue to cost-effectively serve customers in their Carolinas service territories. The DECFM Agreement is intended to enable DEP and DEC to manage and operate one portfolio of fuels, reagents, and transportation across the Carolinas in order to create long-term operational and cost efficiencies by combining under one managing company (1) purchases of coal, fuel oil, biomass, limestone and other reagents, (2) management of truck, rail and barge transportation fleets and logistics, (3) management of fuel storage facilities, and (4) fuel and fuel transportation responses to changing generation dispatch.

Under the DECFM Agreement DEC will be the managing company for the Carolinas' electric Operating Companies, DEC and DEP. The DECFM Agreement builds on the Natural Gas Asset Management Agreement and the Affiliate Asset Transfer Agreement currently in place between DEC and DEP. These affiliate agreements were filed with the NCUC pursuant to N.C. Gen. Stat. § 62-153(b) and Regulatory Condition 3.1 of the Companies' Regulatory Conditions. Although the Public Service Commission of South Carolina (the "Commission") also adopted the Companies' Regulatory Conditions in Docket No. 2011-158-E, the Commission approved the Companies' request for a waiver of Regulatory Condition 3.1 on January 14, 2014 in Order No. 2014-16.

Although the Companies are not required to file affiliate agreements in South Carolina, the Companies wanted to make the Commission aware of the NCUC's order and these forthcoming changes. As such, a copy of the DECFM Agreement, the Asset Transfer Agreement, and the NCUC's order are attached hereto as Exhibits A, B, and C, respectively.

Sincerely,

Katie M. Brown

Katie M. Brown

Enclosures

cc: Andrew Bateman, Office of Regulatory Staff

EXHIBIT A

Attachment 1

FUELS AND RELATED EQUIPMENT AND SERVICES MANAGEMENT AND SUPPLY AGREEMENT

This **Fuels and Related Equipment and Services Management and Supply Agreement** (this "**Agreement**") is made and entered into this __ day of ___, 2021 ("**Execution Date**") by and between Duke Energy Carolinas, LLC ("**DE Carolinas**") and Duke Energy Progress, LLC ("**DE Progress**"). Each of DE Carolinas and DE Progress may sometimes hereinafter be referred to individually as an "**Operating Company**" and collectively as the "**Operating Companies**". Notwithstanding the execution date of this Agreement, the Effective Date of this Agreement will be as set forth in Article 10 of this Agreement following acceptance of this Agreement by the North Carolina Utilities Commission ("**NCUC**") and the Public Service Commission of South Carolina ("**PSCSC**").

WHEREAS, Duke Energy Corporation ("**Duke Energy**") is a Delaware corporation;

WHEREAS, each Operating Company is a subsidiary of Duke Energy and a public utility company that provides electric service to their respective native load retail customers and wholesale customers in the States of North Carolina and South Carolina pursuant to the laws and regulations of those States and the regulatory oversight of the NCUC and the PSCSC, as well as the applicable regulatory oversight of the Federal Energy Regulatory Commission ("**FERC**");

WHEREAS, each Operating Company's electric generation facilities may, from time to time, require the purchase of certain Fuels, Reagents, and Other Consumables;

WHEREAS, each Operating Company has contracted for or otherwise owns or leases certain transportation, storage, transloading or other equipment, or uses services related to the Fuels, Reagents, and Other Consumables described herein;

WHEREAS, the Operating Companies have common management of the procurement, use, sale, and transfer or other disposition of their respective Assets and the related Services, which facilitates certain efficiencies and flexibility in the management, use, or disposition of such resources for the benefit of their respective customers in North Carolina and South Carolina;

WHEREAS, the Operating Companies are parties to the Gas AMA and the Asset Transfer Agreement, each of which enables the common management of Gas, Fuels, Reagents, Services, and Equipment as specified therein; and

WHEREAS, the Operating Companies desire to further facilitate such common management of their respective Assets and Services for the purpose of realizing greater economies of scale, increased operational efficiencies, and additional reductions in the cost of providing power supply services to meet their respective obligations and the underlying requirements of their customers in compliance with applicable statutes, rules, regulations, and obligations placed upon each Operating Company by the NCUC and PSCSC.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth herein, and intending to be bound hereby, each of DE Carolinas and DE Progress agree as follows:

ARTICLE 1. DEFINITIONS

Capitalized terms used in this Agreement that are not defined in the Article or Section in which they appear will have the meaning given to such terms in this Article 1.

"**Asset**" means, as applicable, Fuels, Reagents, Other Consumables, or Equipment.

"**Asset Transfer Agreement**" means the Carolinas Operating Companies Commodity and Related Equipment and Services Transfer Agreement which was accepted by the NCUC on February 10, 2015 (Docket No. E-2, Sub 998A and Docket No. E-7, Sub 986A).

"**Assigned Agreement**" means each Supply Agreement, Service Agreement, Use Agreement, or Vendor Agreement that was assigned by DE Progress to DE Carolinas in accordance with the provisions of Section 1.3 hereunder.

"**Coal Allocation Price**" or "**CAP**" means the sum determined in accordance with the formula set forth in Exhibits A.1 and A.2 attached hereto and incorporated herein by reference.

"**Common Fleet**" has the meaning set forth in Section 5.4 hereof.

"**Cost**" means the then current contract price for such Assets or Services pursuant to the applicable Supply Agreement, Service Agreement, Use Agreement, or Vendor Agreement without reduction or mark-up.

"**Current Month Weighted Average Cost of Inventory**" or "**CMWACI**" means the per unit weighted average cost of inventory of a Fuel for the month in which a transfer of such Fuel occurred and will be calculated in accordance with the formula in Exhibit B attached hereto and incorporated herein by reference.

"**DECFC**" means the DE Carolinas fleet cost as determined in accordance with the provisions of Exhibit C.

"**Delivered Cost**" means (a) the price set forth in the applicable Supply Agreement for the applicable supplier to sell and deliver the Fuel, Reagent, or Other Consumables to the Station plus, (b) if and to the extent that transportation or other miscellaneous costs are not included in

such Supply Agreement, the actual transportation and other miscellaneous costs to transport the applicable Fuel, Reagent, or Other Consumables to the Station.

"**DEPFC**" means the DE Progress fleet cost as determined in accordance with the provisions of Exhibit C.

"**Determination Month**" means the calendar month immediately preceding the month in which the Coal Allocation Price or other allocation or formula is being calculated hereunder.

"**Effective Date**" has the meaning given to such term in Article 10 hereof.

"**Equipment**" means collectively Transportation Equipment, Utility Equipment, and Storage Equipment.

"**Excluded Contract**" means an agreement or contract for which the Operating Companies have mutually agreed will be, or is more than likely to be, of beneficial use to only one (1) Operating Company but not to both of the Operating Companies and therefore such agreement or contract will be held solely in the name of and used for the purposes of the Operating Company so benefitting thereby. For the avoidance of doubt, however, if the Operating Companies later determine that an Excluded Contract may be of general mutual use or benefit, such agreement or contract will no longer constitute an Excluded Contract.

"**FERC**" has the meaning given to such term in the second WHEREAS clause hereof.

"**FSO**" means the Duke Energy Fuels & Systems Optimization business unit or its successor business unit or organization, as applicable.

"**Fuel**" has the meaning given to such term in Section 3.1 hereof.

"**Gas**" means natural gas from whatever source derived that is delivered via interstate and/or intrastate pipeline. The term "Gas" does not include bottle gases, gases that are bought in bulk, or any fuel oil that is delivered via interstate and/or intrastate pipeline.

"**Gas AMA**" means that certain Asset Management and Delivered Supply Agreement dated ___, 2012 by and between DE Carolinas and DE Progress which was accepted by the NCUC on December 19, 2012 (Docket No. E-2, Sub 998A and Docket No. E-7, Sub 986A).

"**Good Utility Practice**" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry in the United States during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others but rather includes all acceptable practices, methods, or acts generally accepted in the region.

"**Initial Term**" has the meaning set forth in Article 10 hereof.

"**Laws**" means all federal, state, and local laws, rules, regulations, and policies, including without limitation, those promulgated by the NCUC or SCPSC.

"**Managing Company**" has the meaning set forth in Section 1.2 hereof.

"**NCUC**" has the meaning given to such term in the opening paragraph hereof.

"**Other Consumables**" means bottle gases, bulk gases, and such items other than Fuel, Gas, Reagents, and Equipment for which FSO is responsible for the procurement thereof.

"**PSCSC**" has the meaning given to such term in the opening paragraph hereof.

"**Reagent**" means, individually and collectively, chemicals, compounds, or other substances (excluding Fuels, Gas, or Other Consumables) that are injected into or otherwise used in the electric generation process at a Station, including, without limitation, those used for the purposes of emissions control or mitigation.

"**Renewal Term**" has the meaning set forth in Article 10 hereof.

"**Service Agreement**" means an executed agreement or contract to hire or otherwise engage the Services from an unaffiliated third-party contractor, consultant, or other service provider.

"**Services**" means, without limitation, transportation services, transloading services, sampling services, Third-Party Storage, maintenance services, or other services related to or in connection with an Operating Company's purchase, receipt, transportation, use, storage, and/or maintenance, as applicable, of Fuels, Reagents, Other Consumables or Equipment.

"**Station**" means any one of the Fuel or Gas fired or co-fired electric power generation plants, whether now or hereinafter existing, that is owned and operated, in whole or in part, by an Operating Company.

"**Storage Equipment**" means trailers, tanks, and such other means of providing temporary storage of any Fuel, Reagent, or Other Consumables.

"**Supply Agreement**" means an executed contract or agreement between an Operating Company and an unaffiliated third-party supplier for the purchase of Fuels, Reagents, or Other Consumables.

"**Term**" means, individually and collectively, the Initial Term and each Renewal Term, as applicable.

"**Third-Party Storage**" means storage of the Fuel, Reagent, Other Consumables, or Equipment at a location that is not owned or controlled by an Operating Company and for which storage fees and/or other related costs are paid to such third party in connection with such storage.

"**Transportation Equipment**" means transportation equipment, including, without limitation, railcars, trucks, and barges, that are or hereinafter may be owned, rented, leased, or otherwise needed to provide transportation services for an Operating Company.

"**Use Agreement**" means an executed contract or agreement between an Operating Company and an unaffiliated third party to rent, lease, or sublease Equipment.

"**Utility Equipment**" means locomotive power, semi-trucks, terminal tractors, and such other equipment that may be used at a Station in connection with the unloading or handling of any Fuel, Reagent, or Other Consumables.

"**Vendor Agreement**" means an executed contract or agreement other than a Use Agreement between an Operating Company and an unaffiliated third-party supplier, vendor, consultant, or other service provider to purchase or otherwise obtain Equipment.

"**Weighted Average Fleet Cost**" or "**WAFC**" means the DECFC or the DEPFC, as applicable, as calculated in accordance with the provisions of Exhibit C attached hereto and incorporated herein by reference.

"**Weighted Average Transfer Cost**" or "**WATC**" has the meaning set forth in Exhibit A.1.

"**Weighted Average Cost of Inventory**" or "**WACI**" means the weighted average cost of inventory for a particular Fuel that is stored at the Station or in Third-Party Storage, as applicable.

ARTICLE 1. PURPOSE AND SCOPE

1.1 Fuels, Reagents, Other Consumables, Equipment, and Services Management and Supply Arrangement. The purpose of the transactions and obligations set forth in or otherwise contemplated by this Agreement is to facilitate the greater coordination and optimization of contractual supply and service rights by leveraging economies of scale and efficiencies of common management between DE Carolinas and DE Progress in effort to reduce the cost of providing electric service to the native load customers of both DE Carolinas and DE Progress. As set forth in Article 10 hereof, performance obligations under this Agreement will begin on a date administratively feasible and mutually acceptable to the Parties after receipt of all such regulatory acceptances or approvals of this Agreement, as applicable, that may be required by the NCUC. Each of DE Carolinas and DE Progress agrees and acknowledges that each is obligated to, and will, take all actions necessary and appropriate to fulfill the obligations and duties set forth herein, for the purpose of meeting all applicable statutory and regulatory obligations.

1.2 Managing Company. As of the Effective Date hereof and subject to the terms and conditions set forth herein, DE Carolinas will serve as the managing company ("**Managing Company**") for the purposes of contracting for, obtaining, and paying for such Fuels, Reagents, Equipment, Other Consumables, and Services as are needed by each of the Operating Companies, and for the purposes of resolving any disputes with third-parties, if any, arising out of or relating to such Fuels, Reagents, Equipment, Other Consumables, and Services, including, without limitation, whether through negotiations, mediation, arbitration, or litigation and with respect to the payment or acceptance of any amounts in connection therewith, except as otherwise provided in this Agreement.

1.3 Assignment of Existing Contracts. As of the Effective Date or as soon as reasonably practicable thereafter, DE Progress will assign such existing contracts as are mutually agreed to in writing between the Parties to DE Carolinas, subject to DE Progress having received any necessary consents to each such assignment. The assignment of such existing contracts will be at zero cost; provided, however, that DE Carolinas will be obligated to remit payment to the applicable third party when due pursuant to the terms of the Assigned Agreements for obligations arising or incurred with respect to the Assigned Agreements on or after the effective date of such assignment. Subject to the immediately next sentence, the Operating Companies will provide to each of the NCUC and the PSCSC a list of the Assigned Contracts no later than thirty (30) business days after the Effective Date hereof. If the effective date of assignment of any Assigned Agreement occurs on a date that is greater than thirty (30) business days after the Effective Date hereof, the Operating Companies will provide each of the NCUC and the PSCSC with notice of such assignment no later than five (5) business days after the effective date of such assignment. The intent of the Parties is that, as of the Effective Date and during the Term of this Agreement, the Managing Company will enter into and manage all new contracts, agreements, and transactions for the Fuels, Reagents, Equipment, Other Consumables, and Services needed by the Operating Companies unless and to the extent the Parties mutually agree otherwise. For the avoidance of doubt, however, DE Progress expressly reserves the right to enter into one or more Service Agreements, Supply Agreements, Use Agreements, or Vendor Agreements in its own name if and to the extent that DE Progress and/or DE Carolinas determine(s) that it is in the best interests of the respective ratepayers of each Operating Company consistent with Good Utility Practice and/or the rules and regulations of the NCUC and the PSCSC.

ARTICLE 2. MANAGEMENT AND SUPPLY

2.1 Right to Demand Supply. DE Progress will have the right, on each day during the Term to call upon DE Carolinas to deliver to DE Progress or otherwise provide for use by DE Progress, as applicable, such types and quantities (or volumes, as applicable) of Fuels, Reagents, Equipment, Other Consumables, and/or Services as DE Progress determines is necessary for or in connection with the operation of its electric generating units at any one or more Station(s).

2.2 Transfer and Use of Assets. On any day when any such Fuels, Reagents, Equipment, Other Consumables, or Services which are then owned, contracted to, or otherwise controlled by DE Progress is not needed to serve DE Progress, including, without limitation, (a) pursuant to any Excluded Contracts and (b) Equipment which remains owned by DE Progress, DE Carolinas may utilize such Assets or Services either to serve its own needs or to make third-party sales, leases, sub-leases, or other disposition of such Assets or Services, whichever is of the most benefit to the native load customers of both DE Carolinas and DE Progress. The foregoing right of use and disposition is without regard to whether such Assets or Services were owned, contracted for, or otherwise controlled by DE Progress prior to the Effective Date or were transferred to DE Progress pursuant to the terms of this Agreement. On any day when any such Fuels, Reagents, Equipment, Other Consumables, or Services which are then owned, contracted to, or otherwise controlled by DE Carolinas is not needed to serve DE Carolinas, including, without limitation, (x) pursuant to any Excluded Contracts and (y) Equipment which remains owned by DE Carolinas, DE Carolinas may utilize such Assets or Services either to serve DE Progress's needs or make third-party sales, leases, sub-leases, or other disposition of such Assets or Services, whichever is of the most benefit to the native load customers of both DE Carolinas and DE

Progress. Any such transactions must be structured to comply with applicable Laws and, if applicable, transferred from one Operating Company to the other Operating Company or otherwise made available for use by the applicable Operating Company in accordance with the provisions of this Agreement.

2.3 Managing Company Obligations. Subject to the purposes of this Agreement as set forth in Section 1.1 and the other provisions hereof, as Managing Company, DE Carolinas has the obligation to choose the source and underlying contractual supply or service arrangements through which it will make delivery of such Assets or provide such Services to DE Progress; provided further, that DE Carolinas will at all times comply with applicable Laws. Title to, risk of loss of, or responsibility for the applicable Assets will pass from DE Carolinas to DE Progress in accordance with the provisions of this Agreement specific to such Assets. In addition, DE Carolinas has the obligation to manage all such Assets and Services as are needed for its own Stations as well as those needed for DE Progress in an effort to produce the lowest cost Fuels, Reagents, Equipment, Other Consumables, and Services for the native load customers of both DE Carolinas and DE Progress.

ARTICLE 3. FUEL MANAGEMENT

3.1 Definition. "**Fuel**" means such fuel as may be combusted during the electric generation process at a Station and includes, without limitation, as applicable, coal, fuel oil, biomass, or other fossil or biofuel. For the purposes of this Agreement "Fuel" does not include Gas.

3.2 Delivery and Title Transfer.

3.2.1 If and to the extent that the applicable Supply Agreement provides that such Fuel is delivered (and title is transferred) to the transferring Operating Company at the third-party supplier's loading or shipping point, then for any such Fuel that is loaded by the supplier for transportation to the receiving Operating Company's Station or to any Third-Party Storage that is contracted for by the receiving Operating Company such Fuel will be deemed delivered and title to, responsibility for, and risk of loss of such Fuel will be transferred to the receiving Operating Company immediately after the delivery and transfer of title to such Fuel to the transferring Operating Company pursuant to the applicable Supply Agreement. Each Operating Company recognizes, however, that in order to meet Fuel supply needs it is possible that such Fuel may be redirected while still en route to a Station or Third-Party Storage facility other than the one for which such Fuel was originally intended when such Fuel was loaded for transportation. Therefore, the Operating Companies agree that, in the event of any such redirection to a Station or Third-Party Storage that is owned, operated, or contracted for by the Operating Company that does not have title to such Fuel pursuant to this Section 3.2.1 at the time such Fuel was redirected, then title to, risk of loss of, and responsibility for the Fuel will pass to the Operating Company that owns, or operates the intended Station or has contracted for the Third-Party Storage, as applicable, (a) if such Fuel is being transported by railcar, at the time that a new rail permit is issued for the intended destination or (b) if such Fuel is being transported by barge or truck, immediately when the Operating Company provides notice of such redirection to the barge or truck carrier, as applicable.

3.2.2 If and to the extent that the applicable Supply Agreement provides that such Fuel is delivered (and title is transferred) to the transferring Operating Company at or after such Fuel arrives at the destination Station or Third-Party Storage, then such Fuel will be deemed delivered and title to, responsibility for, and risk of loss of such Fuel will be transferred from the transferring Operating Company to the receiving Operating Company at or after arrival of such Fuel at the destination Station or Third-Party Storage which is contracted for by such Operating Company in accordance with the terms of the applicable Supply Agreement.

3.2.3 For Fuel, if any, that is owned by DE Progress as of the Effective Date (a) that is in Third-Party Storage and (b) which the Operating Companies desire to transfer to DE Carolinas for the purposes of mutual management and allocation of such Fuel pursuant to this Agreement, then title to, risk of loss of, and responsibility for such Fuel will be transferred from DE Progress to DE Carolinas on a "where is" basis on the date mutually agreed to between the Operating Companies.

3.2.4 For Fuel, if any, that is owned by an Operating Company and remains in Third-Party Storage, such Fuel will be deemed delivered and title to, risk of loss of, and responsibility for such Fuel will transfer from the transferring Operating Company to the receiving Operating Company when such Fuel is loaded from the Third-Party Storage for transportation to the other Operating Company's Station.

3.2.5 For Fuel, if any, that is stored at an Operating Company's Station but the Operating Companies mutually agree to transfer to a Station that is owned by the other Operating Company, whether due to an emergency or excess inventory, such Fuel will be

deemed delivered and title to, risk of loss of, and responsibility for such Fuel will transfer from the transferring Operating Company to the receiving Operating Company when such Fuel is loaded for transportation to the receiving Operating Company's Station.

3.3 Payments to Suppliers. For all Supply Agreements that are held by DE Carolinas, whether by virtue of an assignment or otherwise, DE Carolinas will be responsible to pay the applicable third-party supplier for such Fuel (including, without limitation, all premiums and penalties relating to quality, fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s). For all Supply Agreements, if any, that are held by DE Progress, whether by virtue of an assignment or otherwise, DE Progress will be responsible to pay the applicable third-party supplier for such Fuel (including, without limitation, all premiums and penalties relating to quality, fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s).

3.4 Transfer Pricing.

3.4.1 For coal that is transferred from one Operating Company to the other Operating Company hereunder, the costs for such transferred coal will be paid to the transferring Operating Company by the receiving Operating Company as follows:

(a) For coal that remains in Third-Party Storage or in inventory at the transferring Operating Company's Station at the time of transfer, the receiving Operating Company will pay the CMWACI for each ton or portion thereof of such coal so transferred.

(b) For coal that is transferred from one Operating Company to the other Operating Company either (i) at the time that such coal is loaded for transportation to the receiving Operating Company's Station or (ii) upon arrival at the receiving Operating Company's Station, and in the case of either (i) or (ii) such coal was not first placed into inventory at the transferring Operating Company's Station or in Third-Party Storage the receiving Operating Company will pay the Coal Allocation Price for such coal so transferred.

(c) For any coal that was first placed into Third-Party Storage or into inventory at the transferring Operating Company's Station then was subsequently transferred by one Operating Company to the other Operating Company either (i) at the time that such coal was loaded for transportation to the receiving Operating Company's Station or (ii) upon arrival at the receiving Operating Company's Station then the WATC for such coal actually transferred will be included in the Coal Allocation Price that will be paid by the receiving Operating Company to the transferring Operating Company. Furthermore, the Operating Company for whom such coal is transported to its Station will bear the costs to actually transport such coal to the Station if and when applicable.

(d) Premiums and penalties relating to the quality of the coal that was actually transferred from one Operating Company to the other will be credited to or payable by the receiving Operating Company promptly after payment or credit of such amounts pursuant to the applicable Supply Agreement if and to the extent

that such premiums and penalties were not already included in the Coal Allocation Price or the CMWACI, as applicable.

(e) For the avoidance of doubt, if any coal that was purchased pursuant to an Excluded Contract was transferred from one Operating Company to the other Operating Company, then the volume of coal and related purchase price thereof will be included in the calculation of the Coal Allocation Price pursuant to Exhibits A.1 and A.2 hereto except as otherwise provided in Section 3.4.1(a) hereof.

3.4.2 For fuel oil that is transferred from one Operating Company to the other Operating Company hereunder, the costs for such transferred fuel oil will be paid to the transferring Operating Company by the receiving Operating Company as follows:

(a) for fuel oil that is transferred from one Operating Company to the other Operating Company either (i) at the time that such fuel oil is loaded for transportation to the receiving Operating Company's Station or (ii) upon arrival at the receiving Operating Company's Station, the receiving Operating Company will pay the Delivered Cost for such fuel oil so transferred; provided that such fuel oil was not first placed into Third-Party Storage or in inventory at a Station;

(b) for fuel oil that is transferred from one Operating Company to the other Operating Company either (i) while such fuel oil remains in Third-Party Storage or in inventory at the transferring Operating Company's Station, (ii) when such fuel is lifted from such Third-Party Storage or Station inventory and loaded for transportation to the receiving Operating Company's Station, or (iii) when such fuel oil that was lifted from Third-Party Storage or inventory at the transferring

Operating Company's Station arrives at the receiving Operating Company's Station, as applicable, the receiving Operating Company will pay the CMWACI for each unit of such fuel oil and the receiving Operating Company will bear the costs to actually transport such fuel oil to its Station if and when applicable.

3.4.3 For Fuel other than coal or fuel oil, that is transferred from one Operating Company to the other Operating Company hereunder, if any, the costs for such transferred Fuel will be paid to the transferring Operating Company either (a) at the Delivered Cost, (b) at the CMWACI or (c) at an allocation price that is similar to the Coal Allocation Price, as mutually agreed to between DE Carolinas and DE Progress. If and to the extent that transportation or other miscellaneous costs to transport and deliver the applicable Fuel to the receiving Operating Company's Station are not included in (a), (b), or (c) above or were not otherwise paid by the receiving Operating Company, as applicable, then the receiving Operating Company will reimburse the transferring Operating Company for such costs.

3.5 Sale or Other Third-Party Disposition of Fuel. Consistent with the provisions of Section 2.2 hereof, if Managing Company (a) sells any Fuel that is in Third-Party Storage to one or more third-parties or (b) disposes of such Fuel that is in Third-Party Storage and is unusable and/or unsaleable, then the Operating Companies will (i) divide the positive proceeds, if any, from such sale or (ii) share the costs of such disposition, as applicable, in either case on a pro-rata basis based on each Operating Company's proportionate then current projected use of the type of Fuel (ex. coal or fuel oil) that was sold or disposed of for the twelve (12) months immediately following the date of such sale or disposition. If Managing Company sells or

otherwise disposes of any Fuel that was in inventory at a Station or was in Third-Party Storage pursuant to an Excluded Contract, then the proceeds of such sale or cost of such disposition, as applicable, will be solely for the account of the Operating Company that owned such Fuel.

3.6 Paid or Received Damages or Other Settlement Payments and Legal Expenses. If Managing Company (a) is required to pay any damages or other settlement payments and/or incur legal expenses in connection with a Supply Agreement or any dispute related thereto or (b) receives the payment of damages or settlement amounts or other payments or reimbursements in connection with a Supply Agreement, then the Operating Companies will divide the amounts so paid or share the amounts received, as applicable, on a pro-rata basis based on each Operating Company's proportionate use of such Fuel for the twelve (12) months immediately preceding the date of such sale or disposition. For the avoidance of doubt, any proceeds from the sales or costs of disposing of such Fuel are addressed in Section 3.5 hereof and are not subject to this Section 3.6.

ARTICLE 4. REAGENTS MANAGEMENT

4.1 Delivery and Title Transfer.

4.1.1 If and to the extent that the applicable Supply Agreement provides that such Reagent is delivered (and title is transferred) to the transferring Operating Company at the third-party supplier's loading or shipping point, then for any such Reagent that is loaded by the supplier for transportation to the receiving Operating Company's Station such Reagent will be deemed delivered and title to, responsibility for, and risk of loss of such Reagent will be transferred to the receiving Operating Company immediately after the delivery and transfer of title to such Reagent to the transferring Operating Company

pursuant to the applicable Supply Agreement. Each Operating Company recognizes, however, that in order to meet Reagent supply needs it is possible that such Reagent may be redirected while still en route to a Station or Third-Party Storage facility other than the one for which the Reagent was originally intended when such Reagent was loaded for transportation. Therefore, the Operating Companies agree that, in the event of any such redirection to a Station or Third-Party Storage that is owned, operated, or contracted for by the Operating Company that does not have title to such Reagent pursuant to this Section 4.1.1 at the time such Reagent was redirected, then title to, risk of loss of, and responsibility for the Reagent will pass to the Operating Company that owns or operates the intended Station or has contracted for the Third-Party Storage, as applicable, (a) if such Reagent is being transported by railcar, at the time that a new rail permit is issued for the intended destination or (b) if such Reagent is being transported by barge or truck, immediately when the Operating Company provides notice of such redirection to the barge or truck carrier, as applicable.

4.1.2 If and to the extent that the applicable Supply Agreement provides that such Reagent is delivered (and title is transferred) to the transferring Operating Company at or after such Reagent arrives at the destination Station, then such Reagent will be deemed delivered and title to, responsibility for, and risk of loss of such Reagent will be transferred from the transferring Operating Company to the receiving Operating Company at or after arrival of such Reagent at the destination Station in accordance with the terms of the applicable Supply Agreement.

4.1.3 For any Reagent, if any, that is owned by DE Progress as of the Effective Date (a) that is in Third-Party Storage and (b) which the Operating Companies desire to transfer to DE Carolinas for the purposes of mutual management and allocation of such Reagent pursuant to this Agreement, then title to, risk of loss of, and responsibility for such Reagent will be transferred from DE Progress to DE Carolinas on a "where is" basis on the date mutually agreed to between the Operating Companies.

4.2 Payments to Suppliers. For all Supply Agreements that are held by DE Carolinas, whether by virtue of an assignment or otherwise, DE Carolinas will be responsible to pay the applicable third-party supplier for such Reagent (including, without limitation, all fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s). For all Supply Agreements, if any, that are held by DE Progress, whether by virtue of an assignment or otherwise, DE Progress will be responsible to pay the applicable third-party supplier for such Reagent (including, without limitation, all fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s).

4.3 Transfer Pricing. For any Reagent that is transferred from one Operating Company to the other Operating Company hereunder, the costs for such transferred Reagent will be paid to the transferring Operating Company by the receiving Operating Company as follows:

(a) For a Reagent that remains in Third-Party Storage or in inventory at the transferring Operating Company's Station at the time of transfer, the receiving Operating Company will pay the CMWACI for each unit of such Reagent so transferred and the

receiving Operating Company will bear the costs to actually transport such Reagent to its Station if and when applicable.

(b) For a Reagent that is transferred from one Operating Company to the other Operating Company either (i) at the time that such Reagent is loaded for transportation to the receiving Operating Company's Station or (ii) upon arrival at the receiving Operating Company's Station, and in the case of either (i) or (ii) such Reagent was not first placed into inventory at the transferring Operating Company's Station or in Third-Party Storage the receiving Operating Company will pay the Delivered Cost for such Reagent so transferred.

4.4 Sale or Other Third-Party Disposition of Reagents. Consistent with the provisions of Section 2.2 hereof, if Managing Company (a) sells any Reagent that is in Third-Party Storage to one or more third-parties or (b) disposes of such Reagent that is in Third-Party Storage and is unusable and/or unsaleable, then DE Carolinas and DE Progress will (i) divide the positive proceeds, if any, from such sale or (ii) share the costs of such disposition, as applicable, in either case on a pro-rata basis based on each Operating Company's then current projected proportionate use of the type of Reagent (ex. limestone, ammonia) that was sold or disposed of for the twelve (12) months immediately following the date of such sale or disposition. If Managing Company sells or otherwise disposes of any Reagent that was in inventory at a Station or was in Third-Party Storage pursuant to an Excluded Contract, then the proceeds of such sale or cost of such disposition, as applicable, will be solely for the account of the Operating Company that owned such Fuel.

4.5 Paid or Received Damages or Other Settlement Payments and Legal Expenses. If Managing Company (a) is required to pay any damages or other settlement payments and/or incur legal expenses in connection with a Supply Agreement or any dispute related thereto or (b) receives the payment of damages or settlement amounts or other payments or reimbursements in connection with a Supply Agreement, then the Operating Companies will divide the amounts so paid or share the amounts received, as applicable, on a pro-rata basis based on each Operating Company's proportionate use of such Reagent for the twelve (12) months immediately preceding the date of such sale or disposition. For the avoidance of doubt, any proceeds from the sales or costs of disposing of such Reagent are addressed in Section 4.4 hereof and are not subject to this Section 4.5.

ARTICLE 5. EQUIPMENT MANAGEMENT

5.1 Transfer Pricing. Equipment that is owned by an Operating Company and is transferred to the other Operating Company, if any, will be transferred at the then current net book value for such Equipment. The transfer of owned Equipment, if any, is expressly subject to and will comply with applicable FERC and other accounting rules with respect to such Equipment, including the depreciation and tax payments and treatment thereof.

5.2 Payments to Suppliers. For all Vendor Agreements or Use Agreements that are held by DE Carolinas, whether by virtue of an assignment or otherwise, DE Carolinas will be responsible to pay the applicable third-party vendor or supplier for such Equipment (including, without limitation, all related costs and expenses) when due in accordance with the terms and conditions of the applicable Vendor Agreements or Use Agreements. For all Vendor Agreements or Use Agreements, if any, that are held by DE Progress, whether by virtue of an

assignment or otherwise, DE Progress will be responsible to pay the applicable third-party vendor or supplier for such Equipment (including, without limitation, all related costs and expenses) when due in accordance with the terms and conditions of the applicable Vendor Agreements or Use Agreement.

5.3 Common Use of Railcars. The Parties intend that, subject to any necessary consents or approvals that may be required to be obtained, as soon as is reasonably practicable after the Effective Date DE Progress will assign all Use Agreements for railcars to DE Carolinas for the purposes of common management and use of the railcar fleet consistent with the provisions of Section 2.2 hereof. Notwithstanding the foregoing, if any Use Agreement is not assigned from DE Progress to DE Carolinas but the railcars that are subject thereto are suitable for use by both Operating Companies then Managing Company will nonetheless manage the scheduling and use of such cars for both Operating Companies *as if* such Use Agreement had been assigned to DE Carolinas; provided, however, DE Progress will remain responsible for all payments to the applicable lessor pursuant to any Use Agreement not assigned. Furthermore, Managing Company will manage the scheduling and use of any railcars that are owned (not rented or leased) by each of DE Carolinas and DE Progress in the Common Fleet unless otherwise mutually agreed between the Operating Companies and any such railcars may be used for the transportation needs of either DE Carolinas or DE Progress, without regard to the actual ownership thereof.

5.4 Payment for Common Fleet. For all railcars, whether owned, rented, or leased, for which DE Carolinas and DE Progress agree will be included in the fleet of commonly used railcars ("**Common Fleet**") the costs to rent, lease, own, store, maintain, and use such railcars

will be shared by the Operating Companies at their respective Weighted Average Fleet Cost as calculated in accordance with the provisions of Exhibit C hereof.

5.5 Sale or Other Third-Party Disposition of Equipment.

5.5.1 Consistent with the provisions of Section 2.2 hereof, if Managing Company (a) sells any Equipment to one or more third-parties or (b) disposes of such Equipment that are unusable and/or unsaleable, then (i) the positive proceeds, if any, from such sale or (ii) the costs of such disposition, as applicable, will be for the account of the Operating Company that owned such Equipment.

5.5.2 Consistent with the provisions of Section 2.2 hereof, if Managing Company rents or subleases any Equipment (other than railcars) that was commonly used by the Operating Companies (whether owned or leased) to one or more third-parties then the proceeds of such rental or sublease will be shared between the Operating Companies on a pro rata basis based on either (a) each Operating Company's proportionate use of such Equipment for the twelve (12) months immediately preceding the effective date of such rental or sublease agreement or (b) each Operating Company's projected proportation use of Equipment that is similar to the Equipment being rented or subleased for the twelve (12) months immediately following the effect date of such rental or sublease agreement.

5.5.3 Consistent with the provisions of Section 2.2 hereof, if Managing Company rents or subleases any railcars that were used in the Common Fleet, then the proceeds from any such rental or sublease will be allocated between the Operating Companies as a portion of the Weighted Average Fleet Cost calculations.

5.6 Paid or Received Damages or Other Settlement Payments and Legal Expenses. If Managing Company (a) is required to pay any damages or other settlement payments and/or incur legal expenses in connection with a Use Agreement or Vendor Agreement, the use or disposition of any Equipment or any dispute related thereto or (b) receives the payment of damages or settlement amounts or other payments or reimbursements in connection with a Use Agreement, Vendor Agreement, the use or disposition of any Equipment, or any dispute related thereof, then the Operating Companies will divide the amounts so paid or share the amounts received, as applicable, on a pro-rata basis based on each Operating Company's proportionate use of such Equipment for the twelve (12) months immediately preceding the date of such sale or disposition. For the avoidance of doubt, any proceeds from the sales or costs of disposing of such Equipment are addressed in Section 5.5 hereof and are not subject to this Section 5.6.

ARTICLE 6. OTHER CONSUMABLES MANAGEMENT

6.1 Delivery and Title Transfer.

6.1.1 If and to the extent that the applicable Supply Agreement provides that such Other Consumables are delivered (and title is transferred) to the transferring Operating Company at the third-party supplier's loading or shipping point, then for any such Other Consumables that are loaded by the supplier for transportation to the receiving Operating Company's Station such Other Consumables will be deemed delivered and title to, responsibility for, and risk of loss of such Other Consumables will be transferred from the transferring Operating Company to the receiving Operating Company immediately after the delivery and transfer of title to such Other Consumables pursuant to the applicable Supply Agreement. Each Operating Company recognizes,

however, that in order to meet supply needs for such Other Consumables it is possible that such Other Consumables may be redirected while still en route to a Station or Third-Party Storage facility other than the one for which such Other Consumables were originally intended when such Other Consumables were loaded for transportation. Therefore, the Operating Companies agree that, in the event of any such redirection to a Station or Third-Party Storage that is owned and/or operated or contracted for by the Operating Company that does not have title to such Other Consumables pursuant to this Section 6.1.1 at the time such Other Consumables were redirected, then title to, risk of loss of, and responsibility for the Other Consumables will pass to the Operating Company that owns and/or operates the intended Station or has contracted for the Third-Party Storage, as applicable, (a) if such Other Consumables are being transported by railcar, at the time that a new rail permit is issued for the intended destination or (b) if such Other Consumables are being transported by barge or truck, immediately when the Operating Company provides notice of such redirection to the barge or truck carrier, as applicable.

6.1.2 If and to the extent that the applicable Supply Agreement provides that such Other Consumables are delivered (and title is transferred) to the transferring Operating Company at or after such Other Consumables arrives at the destination Station, then such Other Consumables will be deemed delivered and title to, responsibility for, and risk of loss of such Other Consumables will be transferred from the transferring Operating Company to the receiving Operating Company at or after arrival of the Other Consumables at the destination Station in accordance with the terms of the applicable Supply Agreement.

6.2 Payments to Suppliers. For all Supply Agreements that are held by DE Carolinas, whether by virtue of an assignment or otherwise, DE Carolinas will be responsible to pay the applicable third-party supplier for such Other Consumables (including, without limitation, all fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s). For all Supply Agreements, if any, that are held by DE Progress, whether by virtue of an assignment or otherwise, DE Progress will be responsible to pay the applicable third-party supplier for such Other Consumables (including, without limitation, all fuel surcharges, or other related costs and expenses) when due in accordance with the terms and conditions of the applicable Supply Agreement(s).

6.3 Transfer Pricing. For any Other Consumables that are transferred from one Operating Company to the other Operating Company hereunder, the costs for such transferred Other Consumables will be paid to the transferring Operating Company by the receiving Operating Company as follows:

(a) For Other Consumables that remain in Third-Party Storage or in inventory at the transferring Operating Company's Station at the time of transfer, the receiving Operating Company will pay the CMWACI for each unit of such Other Consumables so transferred and the receiving Operating Company will bear the costs to actually transport such Other Consumables to its Station if and when applicable.

(b) For Other Consumables that are transferred from one Operating Company to the other Operating Company either (i) at the time that such Other Consumables are loaded for transportation to the receiving Operating Company's Station or (ii) upon arrival at the receiving Operating Company's Station, and in the case of either (i) or (ii) such Other

Consumables were not first placed into inventory at the transferring Operating Company's Station or in Third-Party Storage, the receiving Operating Company will pay the Delivered Cost for such Other Consumables so transferred.

6.4 Sale or Other Third-Party Disposition of Other Consumables. Consistent with the provisions of Section 2.2 hereof, if Managing Company (a) sells any Other Consumables that are in Third-Party Storage to one or more third-parties or (b) disposes of such Other Consumables that are in Third-Party Storage that are unusable and/or unsaleable, then DE Carolinas and DE Progress will (i) divide the positive proceeds, if any, from such sale or (ii) share the costs of such disposition, as applicable, in either case on a pro-rata basis based on each Operating Company's proportionate use of such Other Consumables for the twelve (12) months immediately preceding the date of such sale or disposition. If Managing Company sells or otherwise disposes of any Other Consumables that were in inventory at a Station, then the proceeds of such sale or cost of such disposition, as applicable, will be solely for the account of the Operating Company that owned such Other Consumables.

6.5 Paid or Received Damages or Other Settlement Payments and Legal Expenses. If Managing Company (a) is required to pay any damages or other settlement payments and/or incur legal expenses in connection with a Supply Agreement or any dispute related thereto or (b) receives the payment of damages or settlement amounts or other payments or reimbursements in connection with a Supply Agreement, then the Operating Companies will divide the amounts so paid or share the amounts received, as applicable, on a pro-rata basis based on each Operating Company's proportionate use of such Other Consumables for the twelve (12) months immediately preceding the date of such sale or disposition. For the avoidance of doubt, any

proceeds from the sales or costs of disposing of such Other Consumables are addressed in Section 6.4 hereof and are not subject to this Section 6.5.

ARTICLE 7. SERVICES MANAGEMENT

7.1 Cost of Services. If and to the extent that any Services are provided for or on behalf of DE Progress pursuant to a Service Agreement that is held in DE Carolinas's name, whether as an Assigned Agreement or otherwise, then if and to the extent that the costs of such Services are not already included in any CMWACI, WATC, or other allocation price calculated pursuant to this Agreement, DE Progress will reimburse DE Carolinas for the cost of such Services so used either (a) at the price set forth in the applicable Service Agreement on a straight pass-through basis without mark-up; (b) as an allocation of DE Progress's prorated percentage of the total costs (or portion thereof) for such Services for both Operating Companies; or (c) a combination of straight-pass through costs and allocation costs, in any case, as reasonably determined and mutually agreed to between the Operating Companies.

7.2 Paid or Received Damages, Penalties, Refunds, Credits, or Settlement Payments and Legal Expenses. If Managing Company (a) is required to pay any damages, penalties, or settlement payments and/or incur legal expenses in connection with a Service Agreement or any dispute related thereto or (b) receives the payment of damages , refunds, credits, or settlement amounts or other payments or reimbursements in connection with a Service Agreement, then to the extent that such amounts are not already included in an allocation price or other calculation pursuant this Agreement, the Operating Companies will divide the amounts so paid or share the amounts received or credited, as applicable, on a pro-rata basis based on each Operating

Company's proportionate use of such Services pursuant to the applicable Service Agreement for the twelve (12) months immediately preceding the date of such sale or disposition.

ARTICLE 8. SCHEDULING

DE Carolinas and DE Progress agree to work together to develop reasonable request, scheduling, and nomination procedures sufficient to allow DE Carolinas to provide the required Assets and Services to DE Progress or for DEP Progress to transfer such Assets or Services back to DE Carolinas, as applicable, in a manner that effectuates the purposes of this Agreement.

ARTICLE 9. CONDITIONS PRECEDENT

Neither this Agreement nor the obligations set forth herein will be effective or binding on either DE Carolinas or DE Progress until the acceptance of this Agreement by the NCUC without material modification as determined in each of DE Carolinas's and DE Progress's sole discretion. These conditions precedent to the effectiveness of this Agreement may not be waived. Promptly after acceptance of this Agreement by the NCUC, if at all, DE Carolinas and DE Progress will jointly file a copy of this Agreement as so accepted with the PSCSC for informational purposes.

ARTICLE 10. TERM

This Agreement, as well as the transfer, assignment, and delivery obligations set forth herein, will be effective as of the first day of the month designated by mutual agreement of the Operating Companies (such date, the "**Effective Date**") which will occur after: (a) receipt by the Operating Companies of all regulatory acceptances or approvals, as applicable, of this Agreement as may be required from the NCUC without material modification hereof, and (b) assignment or transfer by DE Progress to DE Carolinas, of sufficient agreements and Assets, if applicable, as are identified by the Parties as being necessary to effectuate this Agreement. This Agreement will

continue in full force and effect for a period of five (5) years following the Effective Date unless sooner terminated by written agreement of the Operating Parties or as provided below ("**Initial Term**"). Upon the expiration of the Initial Term set forth above, or any subsequent Renewal Term (as defined below), this Agreement will automatically renew for successive periods of one (1) year each (each a "**Renewal Term**") unless sooner terminated as provided in this Agreement.

ARTICLE 11. REPORTING

Each of the Operating Companies will provide to the NCUC and PSCSC such reports and other information with respect to this Agreement as is required pursuant to applicable Laws.

ARTICLE 12. DEFAULT AND TERMINATION

12.1 Default. The occurrent of any one or more of the following by or with respect to an Operating Company (the "**Defaulting Party**") will constitute an event of material default ("**Event of Default**"):

(a) the failure of an Operating Company to observe, obey, or otherwise perform any of its material obligations under this Agreement (excluding such obligations which are separately listed below herein as a specific Event of Default);

(b) the filing of any petition or the commencement of any action in bankruptcy court, whether voluntary or involuntary, asserting that an Operating Company is insolvent;

(c) the general assignment of assets for the benefit of creditors;

(d) the appointment of any receiver, liquidator, or administrator of the affairs or all or a substantial portion of the assets of an Operating Company;

(e) the failure of an Operating Company to pay its debts as they become due; or

(f) the breach of any representations or warranties set forth herein.

12.2 Termination for Default. Upon the occurrence of any such Event of Default, the non-Defaulting Party may, upon not less than thirty (30) days written notice to the Defaulting Party, terminate this Agreement; provided, however, that such termination will not be effective if the Event of Default has been cured within such thirty (30)-day period or if the Event of Default is subject to a good faith dispute as provided in Article 13 hereof.

12.3 Termination for Convenience. Notwithstanding the foregoing or any other provision herein that may be or appear to the contrary, each Party agrees that this Agreement may be terminated at any time upon the mutual agreement of both Parties, or upon a Party providing not less than thirty (30) days written notice to the other Party pursuant to Article 14 hereof of its intent to terminate this Agreement.

ARTICLE 13. DISPUTE RESOLUTION

In the event of a good faith dispute between the Operating Companies with respect to the performance of their respective obligations hereunder, DE Carolinas and DE Progress agree as follows: (a) to the extent that such dispute cannot be amicably resolved by the operational personnel engaged in the administration of this Agreement, notice of and a reasonable explanation of the details of the dispute must be provided by the complaining Operating Company to the individual designated to receive notices hereunder for the other Operating Company as provided in Article 14 hereof; (b) within ten (10) days after receipt of such notice, the personnel from DE Carolinas and DE Progress with direct supervisory responsibility for the operational personnel involved in the dispute will meet and attempt to resolve the dispute; and (c) in the event that such management personnel are unable to resolve the dispute within fifteen (15) days of such meeting, the matter will be referred to the respective corporate officers of DE

Carolinas and DE Progress with responsibility for the functions subject to the dispute who will meet in effort to resolve the dispute. If such dispute cannot be resolved by said corporate officers of DE Carolinas and DE Progress, either Operating Company may pursue additional mechanisms for resolution of the dispute as may be permitted by law.

ARTICLE 14. NOTICE

Notice of any matter related to the obligations of the Operating Companies hereunder, other than the nomination and scheduling activities discussed in Article 8 (which will be governed by the terms thereof), will be sufficient if it is made in writing and delivered to the following representatives of the Operating Companies through physical delivery (in whatever form made) or electronic mail; provided that such notice will not be effective until actually received at the office of such representative:

Duke Energy Carolinas, LLC:

John Verderame
526 S. Church Street, EC02F
Charlotte, NC 28202
John.Verderame@duke-energy.com

Duke Energy Progress, LLC:

Brett Phipps
526 S. Church Street, EC02F
Charlotte, NC 28202
Brett.Phipps@duke-energy.com

Either Operating Company may from time to time change its person and/or address for receiving notices hereunder by providing written notice to the other Operating Company thereof in accordance with the provisions of this Article 14.

ARTICLE 15. TAXES

DE Carolinas and DE Progress will each be responsible for and will pay, or cause to be paid, any and all taxes that are the responsibility or liability of each applicable Operating Company whether pursuant to this Agreement or applicable Laws.

ARTICLE 16. REASSIGNMENT RIGHTS AND TERMINATION

16.1 Reassignment. Either Operating Company may demand, and the other Operating Company agrees to facilitate, the immediate and expeditious reassignment of any or all of the Assigned Agreements as determined in the requesting Operating Company's sole discretion. The re-assignment of such Assigned Agreements will be at zero cost; provided, however, that the Operating Company to whom such Assigned Agreement is reassigned back will be obligated to remit payment to the applicable supplier or vendor for obligations or liabilities arising or incurred on or after the effective date of such reassignment when due pursuant to the terms of such agreements.

16.2 Inventory and Services. Upon the termination of this Agreement for any reason, to the extent that any Assets or Services that were transferred from one Operating Company to the other remain unused and in the possession of the receiving Operating Company, upon mutual agreement of the Operating Companies such Assets and Services will be transferred back to the transferring Operating Company at such cost as is calculated in accordance with the provisions of this Agreement applicable to such Assets or Services. Furthermore, the Operating Companies will work together in good faith to resolve any disparity in inventory levels or services as promptly as is reasonably practicable.

ARTICLE 17. GOVERNING LAW AND JURISDICTION

This Agreement will be governed by and interpreted and construed in accordance with, the laws of the State of North Carolina without giving effect to the choice of laws or conflict of laws rules that may require the application of the laws of another jurisdiction and, to the extent applicable, by the Federal Law of the United States of America. To the extent that FERC does not assert jurisdiction over any action arising out of, resulting from, or in any way relating to this Agreement, any judicial action, suit, or proceedings arising out of, resulting from, or in any way relating to, this Agreement, or any alleged breach or default under the same or the warranties and representations contained in the same, will be brought solely in the North Carolina Business Court or such other court or forum as the Operating Companies may mutually agree.

ARTICLE 18. AMENDMENTS

No amendment regarding this Agreement will be effective unless executed in writing by each of DE Carolinas and DE Progress. No waiver or consent regarding this Agreement will be effective unless executed in writing by the Operating Company providing such waiver or consent.

ARTICLE 19. ASSIGNMENT

Neither Operating Company may assign this Agreement or the rights, duties, or obligations hereunder without having first obtained the written consent of the other Operating Company; provided, however, that either Operating Company may assign this Agreement to an affiliate or successor entity without first obtaining such written consent to the extent permitted by applicable Laws. Any assignment howsoever occurring must be accepted or approved, if and to the extent applicable, by each of the NCUC and the PSCSC in accordance with applicable Laws.

ARTICLE 20. REGULATORY ACCEPTANCE AND COMPLIANCE

This Agreement and the Operating Companies' respective obligations hereunder are expressly subject to and contingent upon receipt by the Operating Companies of all such regulatory acceptances or approvals of this Agreement, as applicable, that may be required by the NCUC. The Operating Companies agree to cooperate in good faith to obtain acceptance or approval, as applicable, and to take all reasonably necessary actions required to that end. The Operating Companies further agree to execute their respective obligations hereunder in compliance with all applicable laws, rules, and regulations of state and federal regulatory authorities having jurisdiction over the Operating Companies or the subject of this Agreement. This Agreement (or any part thereof) will not be binding on the Operating Companies to the extent it is determined to be in violation of or non-compliance with any such Laws.

ARTICLE 21. MUTUAL REPRESENTATIONS AND WARRANTIES

Each Operating Company represents and warrants to the other Operating Company that, as of the Effective Date and continuing through the Term of this Agreement:

(a) it is duly organized, validly existing, and in good standing under the requirements of law of the jurisdiction of its organization or formation and has all requisite power and authority to execute and enter into this Agreement;

(b) upon receipt of all necessary regulatory acceptances and approvals, as applicable, it has all authorizations under all applicable requirements of Laws necessary for it to legally perform its obligations and consummate the transactions contemplated hereunder or will obtain such authorizations in a timely manner prior to the time that performance by such Operating Company becomes due;

(c) the execution, delivery, and performance of this Agreement will not conflict with or violate any requirement of Laws or any contract, agreement, or arrangement to which it is a party or by which it is otherwise bound;

(d) upon receipt of all necessary regulatory acceptances and approvals, as applicable, this Agreement constitutes a legal, valid, and binding obligation of such Operating Company enforceable against it in accordance with its terms, and such Operating Company has all rights necessary to perform its obligations to the other Operating Company in conformance with the terms and conditions of this Agreement, subject to bankruptcy, insolvency, reorganization, and other Laws affecting creditors' rights generally and general principles of equity;

(e) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether or not this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Operating Company in so doing, is capable of assessing the merits of this Agreement, and understands and accepts the terms, conditions, and risks of this Agreement for fair consideration on an arm's-length basis;

(f) no event of default, or any event that with notice or the passing of time or both would become an event of default, has occurred with respect to such Operating Company, and that such Operating Company is not bankrupt and there are no proceedings pending or being contemplated by it, or to its knowledge, threatened against it which would result in it being or becoming bankrupt;

(g) there is no pending, or to its knowledge, threatened legal proceedings at law or equity against it or any affiliate that does or could materially adversely affect its ability to perform its obligations under this Agreement;

(h) each person who executes this Agreement on behalf of such Operating Company has full and complete authority to do so, and that such Operating Company will be bound by such execution; and

(i) it will work together with the other Operating Company to effectuate the purposes and goals of this Agreement and take all actions reasonably necessary to that end, whether or not specifically set forth herein.

ARTICLE 22. INDEMNIFICATION

Each Operating Company agrees to indemnify, defend, and hold harmless the other Operating Company from all liability and expense, including reasonable attorneys' fees, on account of or arising from any and all damages, claims, actions, suites, or liabilities, including injury to and death of persons, arising from such indemnifying Operating Company's breach of this Agreement or the indemnifying Operating Company's (or its agents' or its employees') fault or negligence or intentional act or omission or failure in the performance of or nonperformance of its obligations hereunder.

ARTICLE 23. LIMITATION ON DAMAGES

Except for the indemnity obligations set forth in Article 22 hereof, any and all claims for damages by one Operating Company against the other under this Agreement will be limited to direct actual damages only. No award of exemplary, punitive, special, consequential, incidental,

or indirect damages is authorized by this Agreement or enforceable against either Operating Company.

ARTICLE 24. MISCELLANEOUS

24.1 Dodd-Frank. This Agreement and the transactions contemplated hereby may contain volumetric flexibility. Each of DE Carolinas and DE Progress represent that (a) it is a "U.S. Person", (b) it is a forward contract merchant, and (c) it has entered into this Agreement and each transaction contemplated hereby to hedge or mitigate commercial risk and is therefore electing the commercial end-user exception. Furthermore, each of DE Carolinas and DE Progress agrees that it will meet all of the reporting obligations relating to this transaction under the Dodd-Frank Act, and applicable rules and regulations, as may be amended, including the reporting of each Operating Company's election of the commercial end-user except for the applicable transactions.

24.2 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of each of the Operating Companies and their respective successor and assigns.

24.3 Severability. Should any term, covenant, condition, or provision of this Agreement be held to be invalid or unenforceable by a court of competent jurisdiction, the balance of this Agreement will remain in full force and effect and will stand as if the unenforceable term, covenant, condition or provision did not exist. The Operating Companies will work together in good faith effort to revise any such invalid or unenforceable term, covenant, condition, or provision so as to give effect as closely as possible to the original intention of the Operating Companies.

24.4 Waiver. Failure by either Operating Company at any time to require performance by the other Operating Company or to claim a breach of any provision of this Agreement will not be construed as a waiver of any subsequent breach, nor affect the binding nature of this Agreement nor any part thereof, nor prejudice either Operating Company with regard to any subsequent action.

24.5 Counterparts; Electronic Signatures. This Agreement may be executed in multiple counterparts (and by the different Operating Companies in different counterparts) each of which will constitute an original but all of which when taken together will constitute one and the same agreement. Furthermore, each of DE Carolinas and DE Progress agrees that Electronic Signatures, whether digital or encrypted, of each of the Operating Companies, including any amendments, waivers, or other documentation relating hereto, are intended to authenticate this writing and each such writing and to have the same force and effect as manual signatures. "**Electronic Signature**" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by an Operating Company with the intent to sign such record.

24.6 Joint Preparation. This Agreement will be considered for all purposes as prepared through the joint efforts of the Operating Companies and will not be interpreted or construed against one Operating Company or the other as a result of the preparation, submittal, drafting, or execution hereof.

24.7 Headings. The Article, section, and paragraph headings of this Agreement are for the sake of reference only and will not have any interpretive value or be considered in the interpretation of this Agreement.

24.8 Entire Agreement. This Agreement, including the attachments and Exhibits hereto, constitutes the entire agreement between the Operating Companies with respect to the subject matter hereof and supersedes all other agreements, oral or written, between DE Carolinas and DE Progress prior to the Effective Date of this Agreement regarding the same subject matter of this Agreement.

24.9 Imaged Agreement. Any original executed Agreement or other related document may be photocopied and stored on computer tapes, disks or by other electronic or digital means ("**Imaged Agreement**"). If an Imaged Agreement is introduced as evidence in any judicial, arbitration, mediation or administrative proceedings neither Operating Company will object to the admissibility of the Imaged Agreement on the basis that such was not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other similar rule of evidence.

IN WITNESS WHEREOF, the Operating Companies have caused this Agreement to be executed by a duly authorized officer or other representative, all as of the date first written above.

DUKE ENERGY CAROLINAS, LLC	**DUKE ENERGY PROGRESS, LLC**
By: _____	By: _____
Name: John A. Verderame	Name: Brett J. Phipps
Title: Vice President- Fuels & Systems Optimization	Title: Managing Director - Fuel Procurement

EXHIBIT A.1
CALCULATION OF COAL ALLOCATION PRICE

The Coal Allocation Price (**"CAP"**) applicable to both Operating Companies will be determined as follows:

CAP = (AMPP + WATC[1] + PP + ADJ[2]) / TCD

"**ACPP**" means the actual purchase price that was paid or incurred pursuant to the ASA for coal that was delivered to one or more Station(s) during such month.

"**AMPP**" means the aggregate total purchase price of coal that was actually received by the Operating Companies for direct shipment to their respective Stations during the Determination Month (excluding any coal that was purchased pursuant to an Excluded Contract except as otherwise provided in Section 3.3.1 of the Agreement) as determined by the following formula:

(ACPP x AV)[3]

For the avoidance of doubt, AMPP does not include any coal that (a) remains in Third-Party Storage or (b) was purchased pursuant to an Excluded Contract.

"**ASA**" means each individual applicable Supply Agreement pursuant to which coal was actually delivered to one or more Station(s) during the Determination Month.

"**AV**" means the actual volume of coal that was delivered to one or more Station(s) during the Determination Month pursuant to the ASA.

"**WATC**" or "**Weighted Average Transfer Costs**" means the total weighted average cost, as calculated pursuant to Exhibit B for the type of Fuel that, during a particular month was (a) removed from Third-Party Storage inventory or (b) was removed from inventory at a Station and was on the inventory books of the Operating Company that was not the receiving Operating Company and, in the case of either (a) or (B) was transported to one or more Stations. WATC is used for the purposes of calculating the CAP (or allocation price similar to the CAP for Fuel other than coal), if applicable, and, with respect to Fuel that was in Third-Party Storage is without regard to which Operating Company possessed title to the Fuel while it remained in Third-Party Storage.

"**PP**" means the aggregate positive or negative, as applicable, net premiums and/or penalties that were actually paid, received, or credited, as applicable, during the Determination Month pursuant to the applicable Supply Agreement(s) for coal that was actually received at the

[1] If applicable
[2] If applicable
[3] Repeated for each ASA then all AMPPs for the Determination Month will be added together

Operating Company's Stations, without regard to whether such premiums and penalties are for coal that was received during the Determination Month or otherwise.

"ADJ" means adjustments to AMPP or PP costs from periods prior to the Determination Month

"**TCD**" means the aggregate total volume of coal that was actually received at all DE Carolinas and DE Progress Stations during the Determination Month, excluding any coal that was purchased by an Operating Company pursuant to an Excluded Contract.

EXHIBIT A.2
CALCULATION OF ALLOCATED COAL COSTS

The Allocated Coal Costs for each Operating Company will be determined as follows:

DEC Allocated Coal Costs = CAP x DECR

DEP Allocated Coal Costs = CAP x DEPR

"CAP" means the Coal Allocation Price as calculated and defined in Exhibit A.1.

"**DECR**" means the total volume of coal that was actually received at one or more DE Carolinas Station(s) during the Determination Month excluding any coal that was purchased by DE Carolinas pursuant to an Excluded Contract.

"**DEPR**" means the total volume of coal that was actually received at one or more DE Progress Station(s) during the Determination Month excluding any coal that was purchased by DE Progress pursuant to an Excluded Contract.

EXHIBIT B
CALCULATION OF WEIGHTED AVERAGE TRANSFER COSTS

WATC = CMWACI x AT

Where:

"**AT**" means the actual volume of coal that was transferred to one or more Station(s) during the Determination Month.

"**Current Month Weighted Average Cost of Inventory**" or "**CMWACI**" is calculated as follows: [(Beginning Inventory Qty x Prior Month WACI) + ((receipt 1 qty x receipt 1 unit cost) + (receipt 2 qty x receipt 2 unit cost)[4])]/(Beginning Inventory Qty + receipt 1 qty + receipt 2 qty[5])

"**Beginning Inventory Qty**" means the total volume of such Fuels in inventory on the first (1st) day of the month for which the CMWACI is being calculated. For the purposes hereof, the Beginning Inventory Qty for a month is equal to the volume of Fuels that were in inventory at 11:59 pm on the last day of the month prior to the month for which the CMWACI is being calculated

"**Prior Month WACI**" means the Weighted Average Cost of Inventory for the month prior to the month for which the CMWACI is being calculated.

"**receipt 1 qty**" means the first shipment of such Fuels received into inventory at the Station or Third-Party Storage as applicable during the month for which the CMWACI is being calculated. "**receipt 2 qty**" would be for the second shipment and so on.

"**receipt 1 unit cost**" means the per unit price (ex. tons, gallons, etc.) for the receipt 1 qty pursuant to the applicable Supply Agreement. "**receipt 2 unit cost**" would be applicable to the receipt 2 qty and so on. The receipt 1 unit cost, receipt 2 unit cost, etc., is inclusive of all "as delivered" costs including commodity purchase price, transportation, premiums and penalties, and other ancillary costs, if any.

[4] Repeat as applicable
[5] Repeat as applicable

EXHIBIT A

Attachment 1

An example of a WATC calculation for coal in Third-Party Storage for the month of October, 2019 is below for illustration purposes only:

Inventory	**Volume (in Tons)**	**Total Volume Cost (as delivered)**	**Unit Cost ($/ton)**
Beginning inventory	154,241.415	$8,697,022.56	$56.39
Inbound activity	52,418.520	$2,735,723.94	$52.19
Purchase manual	0.0000	$377.00	$0.00
Transportation	0.0000	$231,654.37	$0.00
Subtotal	52,418.520	$2,967,755.31	$56.62
Available	206,659.935	$11,664,777.87	$56.44
Out transfer activity	-25,022.330	-$1,412,368.21	$56.44
Ending inventory	181,637.605	$10,252,409.66	$56.44

The beginning inventory WACI (equivalent to ending WACI for September 2019 ("**Prior Month WACI**")) is 154,241.415 tons for a total cost of $8,697,022.56 and an average unit cost of $56.39/ton. Current month receipts are 52,418.52 tons with $2.7M commodity cost, $231k transportation cost, and $377 of ancillary costs for a total cost of receipts of $2,967,755.31, or $56.62/ton. The total of beginning inventory plus receipts is 206,659.935 tons and $11,664,777.87, for a monthly CMWACI of $56.44/ton for October 2019. As illustrated above, this $56.44/ton is multiplied by the number of tons of outbound transfers of the coal in the Determination Month, producing the WATC for the month of $1,412,368.21 which is reflected in the CAP calculated in Exhibit A.1.

EXHIBIT C
CALCULATION OF WEIGHTED AVERAGE FLEET COST

The Weighted Average Fleet Cost for each Operating Company will be determined as follows:

DECFC = Cost x (DECPC/TPV)

DEPFC = Cost x (DEPPC/TPV)

"Cost" means the cost to rent, lease, own, store, and/or maintain such Equipment pursuant to the applicable Service Agreements, Vendor Agreements, or Use Agreements.

"**DECPC**" means the total projected volume of Commodity (when compared to the Total Volume) to be burned or used at one or more DE Carolinas Station(s) during the twelve (12) month period following the month in which in which such DECPC is being calculated, as reasonably determined and agreed to between the Operating Companies.

"**DEPPC**" means the total projected volume of Commodity (when compared to the Total Volume) to be burned or used at one or more DE Progress Station(s) during the twelve (12) month period following the month in which in which such DEPPC is being calculated, as reasonably determined and agreed to between the Operating Companies.

"**Total Volume**" means the total volume of such Commodity that is projected to be burned or used at all of the Stations that are owned and operated by each of the Operating Companies during the twelve (12) month period following the month in which in which such WAFCP is being calculated, as reasonably determined and agreed to between the Operating Companies.

"**Commodity**" means the type of Fuel or Reagent, as applicable, for which such Equipment is used.

"**TPV**" - means the total projected volume of Commodity to be burned or used at one or more DE Carolinas and DE Progress Station(s) during the twelve (12) month period following the month in which in which such TPV is being calculated, as reasonably determined and agreed to between the Operating Companies.

EXHIBIT B

Attachment 2

First Amendment to the
Carolinas Operating Companies Commodity and Related
Equipment and Services Transfer Agreement

This **First Amendment to the Carolinas Operating Companies Commodity and Related Equipment and Services Transfer Agreement** (this "**First Amendment**") is made and entered into to be effective as of the Effective Date as defined in Section 2 below herein by and between Duke Energy Carolinas, LLC, a North Carolina limited liability company ("**DE Carolinas**"), and Duke Energy Progress, LLC a North Carolina limited liability company f/k/a Duke Energy Progress Inc. ("**DE Progress**") sometimes herein each referred to individually as an "**Operating Company**" and collectively as the "**Operating Companies**".

WHEREAS, DE Carolinas and DE Progress are parties to the Carolinas Operating Companies Commodity and Related Equipment and Services Transfer Agreement (the "**Asset Transfer Agreement**") which was accepted by the North Carolinas Utilities Commission (the "**Commission**") on February 10, 2015 in Docket No. E-2 Sub 998A and Docket No. E-7 Sub 986A;

WHEREAS, pursuant to the Asset Transfer Agreement the Operating Companies were enabled to facilitate common management of the procurement, use, sales, and transfer or other disposition of their respective assets and related services on an urgent or emergency basis for the benefit of their respective customers in North Carolina and South Carolina;

WHEREAS, the Operating Companies now desire to enter into a Fuels and Related Equipment and Services Management and Supply Agreement (the "**DECFM Agreement**") in order to facilitate common management of the procurement, use, sales, and transfer or other disposition of its assets and services on a daily, ongoing basis, except for Coal Combustion Products and related Services (each as defined in the Asset Transfer Agreement);

WHEREAS, the Operating Companies desire to amend the Asset Transfer Agreement in order to avoid overlap, conflict, and/or inconsistencies between the Asset Transfer Agreement and the DECFM Agreement; and

WHEREAS, the DECFM Agreement has been filed with the Commission prior to or simultaneously with this First Amendment.

NOW THEREFORE, in consideration of the foregoing and for the mutual promises and covenants herein, the receipt and sufficiency of which are hereby acknowledged by the Parties and intending to be legally bound hereby, each of DE Carolinas and DE Progress agree as follows:

1. The above recitals are incorporated herein by reference.

2. This First Amendment will be effective on the later of (a) receipt by the Operating Companies of all regulatory acceptances or approvals, as applicable, of both (and not less than both) of the DECFM Agreement and this First Amendment as may be required from the Commission without material modification thereof or hereof as determined in the sole discretion of each Operating Company, and (b) assignment or transfer by DE Progress to DE Carolinas, of sufficient agreements and assets as are identified by the Operating Companies as being necessary to effectuate the purposes and intent of the DECFM Agreement (as applicable the "**Effective Date**").

3. As of the Effective Date the Asset Transfer Agreement is hereby amended as follows:

   (a) The definition for "Assets" as set forth in Article 1 Definitions is hereby deleted in its entirety and the following is inserted in lieu thereof:
   " "**Asset**" means Coal Combustion Products."

   (b) The definition for "Cost" as set forth in Article 1 Definitions is hereby deleted in its entirety and the following is inserted in lieu thereof:
   " "**Cost**" means (a) with respect to Services, the Transferor's then current contract price for such Services pursuant to the applicable Service Agreement; and (b) with respect to Coal Combustion Products the Recipient's then current net proceeds (whether positive or negative) to sell or otherwise transfer such Coal Combustion Products pursuant to the applicable CCP Agreement."

   (c) The definition for "Emergency Transfer" as set forth in Article 1 Definitions is hereby deleted in its entirety and the following is inserted in lieu thereof:
   " "**Emergency Transfer**" means a transfer of Services from one Operating Company to the other Operating Company in order to mitigate or relieve an urgent needs for such Services at the Station."

   (d) The definitions for each of "Equipment", "Fuel", "Reagents", "Supply Agreement", "Use Agreement", "Weighted Average Cost", and "Weighted Average Delivered Cost" as set forth in Article 1 Definitions are each hereby deleted in their respective entirety and all reference thereto in the Asset Transfer Agreement will hereby be deemed likewise be deleted or otherwise disregarded.

(e) The definition for "Services" as set forth in Article 1 Definitions is hereby deleted in its entirety and the following is inserted in lieu thereof:
" "**Services**" means transportation services, transloading services, sampling services, or other services related to or in connection with an Operating Company's production, storage, reclamation, sale, transfer, or management of Coal Combustion Products."

(g) The definition for "Station" is hereby amended by replacing "Fuel or natural gas" with "fossil fuel".

(h) The following Sections are hereby deleted in their entirety and will be deemed to be intentionally omitted:

Sections 2.1, 2.3(a), 2.4, 2.8(a) and 5.9

(f) Each of Exhibits A, B, and C are hereby deleted in their entirety.

(g) Promptly after acceptance of this First Amendment by the Commission, if at all, DE Carolinas and DE Progress will jointly file a copy of this Agreement as so accepted with the Public Service Commission of South Carolina ("**PSCSC**") for informational purposes.

(h) All other terms and conditions of the Asset Transfer Agreement that are not expressly amended or modified in this First Amendment remain unchanged and in full force and effect.

(i) Capitalized terms used but not defined in this First Amendment have the meaning given to them in the Asset Agreement.

(j) This First Amendment supersedes and replaces all prior agreements, oral and written, between the Operating Companies with respect to the subject matter hereof. In the event of any conflict or inconsistencies between this First Amendment and the Asset Transfer Agreement, the terms and conditions of this First Amendment prevail.

(k) This First Amendment is binding upon and inures to the benefit of each of the Operating Companies and their respective successors and permitted assigns.

(l) Each Party acknowledges and agrees that it and its counsel have reviewed and revised this First Amendment and that the normal rule of construction to the

effect that any ambiguities are to be construed against the drafting party will not be used in the interpretation of this First Amendment.

(m) This First Amendment will be governed by, interpreted and construed as one in accordance with the laws of the State whose laws govern the Asset Transfer Agreement.

(n) This First Amendment may be executed in multiple counterparts each of which, when so executed, are deemed to be an original but all of which constitute but one and the same instrument. Each Operating Company agrees that Electronic Signatures, whether digital or encrypted, of each Operating Company are intended to authenticate this writing and to have the same force and effect as manual signatures. "**Electronic Signatures**" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record.

IN WITNESS WHEREOF, each of the Operating Companies has caused this First Amendment to be executed by its duly authorized representative to be effective as of the Effective Date.

Duke Carolinas, LLC	**Duke Progress, LLC**
By:_____	By:_____
Name: John A. Verderame	Name: Brett J. Phipps
Title: Vice President – Fuels & Systems Optimization	Title: Managing Director – Fuel Procurement

EXHIBIT C

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1282
DOCKET NO. E-7, SUB 1258

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of Affiliate Agreement	)))))	ORDER ACCEPTING AFFILIATE AGREEMENT WITH CONDITIONS, ALLOWING PAYMENT THEREUNDER, AND ACCEPTING AMENDMENT TO PRIOR AGREEMENT

BY THE COMMISSION: On November 19, 2021, Duke Energy Carolinas, LLC (DEC), and Duke Energy Progress, LLC (DEP, collectively Duke or Companies), pursuant to N.C. Gen. Stat. § 62-153 and Section III of the Regulatory Conditions approved in the Commission's August 24, 2018 Order Granting Motion to Amend Regulatory Conditions, in Docket Nos. E-2, Sub 1095A, E-7, Sub 1100A and G-9, Sub 682A (DEC/DEP Regulatory Conditions), filed a request for approval of their Fuels and Related Equipment and Services Management and Supply Agreement (DECFMA), and the First Amendment to their Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement (First Amendment to Asset Transfer Agreement). In addition, the Companies filed a proposed order approving the agreements.

BACKGROUND

As a part of the 2012 merger of Duke Energy Corporation and Progress Energy, Inc., the Commission approved the Joint Dispatch Agreement (JDA), between DEC and DEP. Order Approving Merger Subject to Regulatory Conditions and Code of Conduct, Docket Nos. E-7, Sub 986, and E-2, Sub 998, June 30, 2012 (Merger Order). In summary, the JDA created the framework by which DEC and DEP manage and utilize their electric generation assets jointly to serve their respective retail customers with the most efficient generating plants available on a daily basis.

On November 27, 2012, the Companies filed for approval a Natural Gas Asset Management Agreement (AMA). In essence, the AMA authorized DEC to serve as the natural gas asset manager for gas supply and capacity for both DEC and DEP. The Companies explained that the AMA was a means of facilitating efficiencies and flexibilities in the management of gas assets and resources. The AMA was approved by the Commission on December 19, 2012. Order Accepting Affiliate Agreement and Allowing Payment Thereunder, Docket Nos. E-2, Sub 998A and E-7, Sub 986A.

On February 10, 2015, the Commission accepted for filing and compensation thereunder the Companies' Carolinas Operating Companies Commodity and Related

Equipment and Services Transfer Agreement (Asset Transfer Agreement), in Docket Nos. E-2, Sub 998A and E-7, Sub 986A. In summary, the Asset Transfer Agreement enabled DEC and DEP to facilitate the common management of fuel, reagents, and coal combustion products (CCP), as well as related equipment and services, by allowing for the transfer of those goods and services between them on a limited basis. However, it did not change the typical daily practice whereby DEC and DEP manage their respective procurement, use, sale, and transfer or other disposition of their own fuel, reagents, and CCP, as well as related equipment and services. Instead, the Companies continued to transact on their own behalf with their respective third-party suppliers and customers, invoking the terms of the Asset Transfer Agreement only when cost savings and administrative ease presented opportunities for savings, or when there was a need for emergency assistance that could be provided by DEP to DEC, or vice versa.

DECFMA

In the present filing, Duke discussed the increase in the changing nature of coal usage resulting from the expansion of dual fuel (coal and gas) capability and increased market variability. The Companies stated that the DECFMA is intended to enable DEP and DEC to manage and operate one Carolinas portfolio of fuels, reagents, and transportation in order to create long-term operational and cost efficiencies by combining under one managing company (1) purchases of coal, fuel oil, biomass, limestone and other reagents, (2) management of truck, rail and barge transportation fleets and logistics, (3) management of fuel storage facilities, and (4) fuel and fuel transportation responses to changing generation dispatch. The initial term of the DECFMA would be five years, with automatic renewals for successive periods of one year.

Duke stated that the DECFMA will allow DEC and DEP to increase the flexibility needed to manage dual fuel usage and other changes so that they can continue to serve customers in North Carolina and South Carolina in a cost-effective manner. They further explained that currently DEC and DEP separately procure and maintain their supplies of coal, fuel oil, limestone, reagents, transportation equipment, maintenance, and fuel and fuel-related contracts. They stated that under the proposed agreement DEC will become the asset manager for DEP and will be DEP's face to the market for commodities, services, and equipment - including coal, limestone, fuel oil, rail and barge transportation, and other procurements - pursuant to a list of such commodities, services, and equipment attached as Appendix A to Duke's filing. Moreover, as the managing company DEC will be responsible for resolving any disputes with third-parties related to such commodities, services, and equipment. However, an exception is made for CCP and related services, as those matters are defined in the Asset Transfer Agreement. The Companies stated that the DECFMA will be different from the current arrangement under the Asset Transfer Agreement, wherein the management of these goods and services by DEC or DEP for the other utility is only on an ad hoc or emergency basis.

According to Duke, the DECFMA further provides that DEP will have the right to call upon DEC daily to deliver or provide to DEP such types and quantities of fuels, reagents, equipment, other consumables and services as DEP determines is necessary

for the operation of its coal and co-fired electric generating plants. On any day when any such consumables or services, which are then owned, contracted to, or otherwise controlled by DEP, are not needed to serve DEP, DEC may utilize such assets or services to either serve its own needs or to make third-party sales, leases, subleases, or other disposition of such assets or services, whichever is of the most benefit to the native load customers of DEP. Similarly, when assets or services owned, contracted to, or otherwise controlled by DEC are not needed by DEC, DEC may utilize such assets or services to either serve DEP's needs or make third-party sales, leases, subleases, or other dispositions.

Further, the Companies stated that under the DECFMA existing DEP contracts for such goods and services will be assigned to DEC, where such assignments are permissible under the contracts and are mutually agreed to in writing between the parties. The assignment of such existing contracts will be at zero cost to DEC, and DEC will be obligated to remit payment to the applicable third party when due pursuant to the terms of the assigned agreements. The Companies stated that they will provide the Commission a list of the assigned contracts no later than 30 business days after the effective date of the DECFMA.

Moreover, the Companies stated that under the DECFMA DEP and DEC reserve the right to enter into agreements in its own name if and to the extent that DEP and/or DEC determine that it is in the best interests of their respective ratepayers, consistent with best practices, and is in compliance with the rules and regulations of the Commission.

Finally, pursuant to the terms of the DECFMA the cost of consumables transferred from DEP to DEC, or vice versa, is generally the delivered cost of such consumables, unless the goods have been placed in inventory or storage by the initial purchaser of the consumables. In that event, the DECFMA sets forth the details of the methodologies by which costs will be determined and allocated between DEC and DEP. DEC and DEP state that the cost allocation methodologies, based on actual receipts, provide an equitable allocation of actual costs or revenues to DEC and DEP, and allow for costs or revenues to be excluded if, by mutual agreement, the costs incurred or revenues received are likely to be of benefit to only one company.

First Amendment to Asset Transfer Agreement

According to the Companies, the DECFMA shares similarities with the Asset Transfer Agreement and, therefore, the First Amendment to the Asset Transfer Agreement conforms the terms of that agreement with the terms of the DECFMA to avoid overlap, conflict, and inconsistencies between the two agreements. For example, the First Amendment to the Asset Transfer Agreement amends the definition of "Assets" to reference only CCP, and strikes applicability of the Asset Transfer Agreement to matters included in the DECFMA, such as the definitions of "Equipment", "Fuel", "Reagents", "Supply Agreement", "Use Agreement", "Weighted Average Cost", and "Weighted Average Delivered Cost."

DISCUSSION

Standard of Review

Pursuant to N.C. Gen. Stat. § 62-2(a), state policy requires energy planning and rates that result in safe, adequate, and reliable utility service at the least cost achievable.

As a result of the merger of Duke Energy and Progress Energy, DEP became a wholly owned subsidiary of Duke Energy Corporation, as is DEC. Thus, DEP and DEC are affiliates within the meaning of N.C. Gen. Stat. § 62-153. One result of this affiliate relationship is that DEP cannot pay any compensation to DEC under the DECFMA, or vice versa, without the Commission granting its approval of the contract. N.C.G.S. § 62-153(b). The statute, in pertinent part, states that

> The Commission may disapprove, after hearing, any such contract if it is found to be unjust or unreasonable, and made for the purpose or with the effect of concealing, transferring, or dissipating the earnings of the public utility.

N.C.G.S. § 62-153(a).

In addition, pursuant to Section 3.1 of the DEC/DEP Regulatory Conditions, DEC and DEP are required to provide proposed affiliate agreements or amendments thereof to the Public Staff for review at least 15 days in advance of filing the contract or amendment with the Commission. The Companies stated that they provided the Public Staff with copies of the DECFMA and First Amendment to Asset Transfer Agreement for the Public Staff's review on May 19, 2021, and that in addition the Public Staff reviewed the Companies' request for approval of these documents and the proposed order. They further stated that the Public Staff made suggested additions to the proposed order, which Duke accepted and incorporated into the proposed order, and that the Public Staff has indicated to the Companies that it does not oppose the request for approval of the DECFMA and First Amendment to Asset Transfer Agreement, or issuance of the proposed order.

CONCLUSION

Based on the foregoing and the record, the Commission concludes that the DECFMA will enhance the benefits of the JDA and AMA by allowing centralized management of a single fuels and services procurement portfolio by DEC, and should result in more operational efficiencies for customers. As such, the DECFMA will build upon and extend the efficiencies of the JDA, AMA and Asset Transfer Agreement to provide for long term operational and cost efficiencies that will promote the state's policy of least cost public utility service. Moreover, the Commission concludes that the DECFMA and the First Amendment to Asset Transfer Agreement were not made for the purpose of concealing, transferring, or dissipating the earnings of DEP or DEC, that they will not have

such an effect, and that the DECFMA and amended Asset Transfer Agreement meet the requirements for approval under N.C.G.S. § 62-153.

In addition, the Commission concludes that the First Amendment to Asset Transfer Agreement is reasonable and appropriate based on changes needed to said agreement in response to corresponding definitions and terms of the DECFMA.

As a result, the Commission concludes that the DECFMA and the First Amendment to Asset Transfer Agreement should be accepted for filing, that both agreements should be allowed to become effective as proposed, and that the payment of compensation by DEC and DEP as provided for in the agreements should be approved, subject to the conditions set forth in the Ordering Paragraphs below.

IT IS, THEREFORE, ORDERED as follows:

1. That the Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement are accepted for filing and allowed to become effective immediately, and that the payment of compensation by DEC and DEP as set forth in the agreements is approved, subject to conditions;

2. That the acceptance and approval provided herein are subject to the following conditions:

(a) No changes may be made to the Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement without prior filing with and approval by the Commission. DEC and DEP are required to file any proposed amendments prior to the execution of an amended agreement and prior to payment of any compensation pursuant to such amendments;

(b) All terms of the Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement remain subject to DEC's and DEP's compliance with their approved Regulatory Conditions and Code of Conduct;

(c) Nothing in this Order shall be deemed, in connection with any future proceeding before the Commission, to determine and establish any of DEC's or DEP's costs for the purposes of North Carolina retail ratemaking or, for any other purpose, to constitute Commission approval of any level of charges directly charged, assigned, or allocated to DEC and DEP under the Fuels and Related Equipment and Services Management and Supply Agreement or the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement;

(d) The authority granted by the Commission in this Order shall be without prejudice to the right of any party to take issue with any provision of the Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement in a future proceeding;

(e) The terms of the agreements and the activities conducted pursuant thereto remain subject to ongoing review as to their appropriateness and reasonableness and to modification by the Commission upon its own motion or upon the motion of any party; and

(f) All costs and sales assigned or allocated in connection with the Fuels and Related Equipment and Services Management and Supply Agreement and the First Amendment to the Carolinas Operating Commodity and Related Equipment and Services Transfer Agreement remain subject to ongoing review as to their appropriateness and reasonableness and to further action by the Commission upon its own motion or upon the motion of any party.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of January, 2022.

NORTH CAROLINA UTILITIES COMMISSION

Erica N. Green, Deputy Clerk